

**File a Motion:**14-11987-CSS FCC Holdings, Inc.Type: bk Chapter: 11 v  
Assets: y Judge: CSSOffice: 1 (Delaware)  
Case Flag: MEGA,  
CLMSAGNT, CONFIRMED,  
LEAD**U.S. Bankruptcy Court****District of Delaware****Notice of Electronic Filing**

The following transaction was received from Thomas Joseph Francella entered on 8/11/2015 at 4:57 PM EDT and filed on 8/11/2015

**Case Name:** FCC Holdings, Inc.**Case Number:** 14-11987-CSS**Document Number:** 585**Docket Text:**Motion to Approve Stipulation *Between Christopher Scott and August Moses and the Liquidating Trustee Granting Relief from Automatic Stay and Plan Injunction* Filed by August Moses, Christopher Scott. (Attachments: # (1) Exhibit A # (2) Proposed Form of Order # (3) Notice of Hearing # (4) Certificate of Service) (Francella, Thomas)

The following document(s) are associated with this transaction:

**Document description:**Main Document**Original filename:**FCC - Motion.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-0  
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28d20b1913691e42cde89dd822e3e80b3ea1226cfd829227a45e97cd454a3]]**Document description:**Exhibit A**Original filename:**C:\fakepath\FCC - Ex A.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-1  
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cecb6aa29c17f5bd8d1776f995bc92ae9f6ae8595a53a021977b1650612b5]]**Document description:**Notice of Hearing**Original filename:**C:\fakepath\FCC - Notice of Hearing.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-3  
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c8ff98d69f52404aeee6395a3766ff490248b1249c4e80b496dad846afda0]]**14-11987-CSS Notice will be electronically mailed to:**

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Wells Fargo Financial Leasing, Inc.

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Assets: y Judge: CSSOffice: 1 (Delaware)  
Case Flag: MEGA,  
CLMSAGNT, CONFIRMED,  
LEAD**U.S. Bankruptcy Court****District of Delaware****Notice of Electronic Filing**

The following transaction was received from Thomas Joseph Francella entered on 8/11/2015 at 4:57 PM EDT and filed on 8/11/2015

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28d20b1913691e42cde89dd822e3e80b3ea1226efd829227a45c97cd454a3]]**Document description:**Exhibit A**Original filename:**C:\fakepath\FCC - Ex A.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-1]  
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eeeb6aa29c17f5bd8d1776f995bc92ae9f6ae8595a53a021977b1650612b5]]**Document description:**Notice of Hearing**Original filename:**C:\fakepath\FCC - Notice of Hearing.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-3]  
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7803f93e18421d1b0843ee2f363af49399bcdb01ff5bfc69875e8d75de10e]]**Document description:**Certificate of Service**Original filename:**C:\fakepath\FCC - COS.PDF**Electronic document Stamp:**[STAMP bkecfStamp\_ID=983460418 [Date=8/11/2015] [FileNumber=13297362-4]  
][04c33963ab0a2122dd8200d158b817b217ae68304568ac3ef9d7ad51e1cabdab914  
c8ff98d69f52404aeece6395a3766ff490248b1249c4e80b496dad846afda0]]**14-11987-CSS Notice will be electronically mailed to:**

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**14-11987-CSS Notice will not be electronically mailed to:**

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WELLS FARGO EQUIPMENT FINANCE, INC.

,

Wells Fargo Financial Leasing, Inc.

,

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re:	) Chapter 11
	)
FCC HOLDINGS, INC., et al.	) Case No. 14-11987 (CSS)
	)
Debtors.	) (Jointly Administered)
	)
	) Objection Deadline: August 25, 2015 at 4:00 p.m. (EST)
	) Hearing Date: TBD

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**MOTION TO APPROVE STIPULATION BETWEEN  
CHRISTOPHER SCOTT AND AUGUST MOSES AND  
THE LIQUIDATING TRUSTEE GRANTING RELIEF FROM  
AUTOMATIC STAY AND PLAN INJUNCTION**

Christopher Scott and August Moses (“**Scott and Moses**”) hereby request the entry of an Order, pursuant to 11 U.S.C. §§105(a) and 362(d), and Fed.R.Bankr.P. 9019(a), approving that certain Stipulation Granting Relief from the Automatic Stay and Plan Injunction<sup>1</sup> (the “**Stipulation**”) and in support thereof, respectfully state as follows:

**Background**

1. On August 25, 2014 (the “**Petition Date**”), each of the above-captioned debtors (the “**Debtors**”) filed a voluntary petition for relief with the United States Bankruptcy Court for the District of Delaware (the “**Court**”) under chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

2. The Official Committee of Unsecured Creditors was appointed in these cases on September 5, 2014.

---

<sup>1</sup> Christopher Scott and August Moses are creditors of Debtors High-Tech Institute, Inc., Education Training Corporation, and/or FCC Holdings, Inc., d/b/a Anthem Education and Anthem Career College.

3. On March 18, 2015, the Court entered its Order Confirming First Amended Joint Plan of Orderly Liquidation of FCC Holdings, Inc. and Its Affiliated Debtors (the “**Plan**”) under Chapter 11 of the Bankruptcy Code [D.I. 464].

4. Under the terms of the Plan a liquidating trust was established (the “**Trust**”). The liquidating trustee for the Trust is Clingman & Hanger Mgmt Assoc, LLC (the “**Trustee**”).

5. The effective date of the Plan was May 6, 2015 (the “**Effective Date**”).

6. Prior to the Petition Date, Scott and Moses initiated administrative proceedings before and filed Charges of Discrimination against their former employer, Anthem Career College, with the United States Equal Employment Opportunity Commission, Nashville, Tennessee, Area Office (EEOC), Charge Nos. 494-2014-01259 (Scott) and 494-2014-01314 (Moses). Scott and Moses filed Proof of Claim forms in this action on March 30, 2015. The EEOC issued Scott and Moses Notices of Suit Rights on April 14, 2015. Accordingly, Scott and Moses seek to pursue their claims against Anthem Career College in the United States District Court for the Middle District of Tennessee (the “**Tennessee Action**”), which action is subject to the automatic stay by operation of section 362 of the Bankruptcy Code and the injunction provided for in Section 11.05 of the Plan (the “**Injunction**”).

7. After the Effective Date, counsel for Scott and Moses contacted counsel for the Trustee regarding obtaining relief from the automatic stay and the Injunction to permit Scott and Moses to liquidate their claims in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist. Scott and Moses and the Trustee subsequently entered into the Stipulation, a true and correct copy of which is attached hereto as **Exhibit A.**



### **The Scott and Moses Stipulation**

8. Pursuant to the Stipulation, the Trustee consents on a limited basis to relief from the automatic stay pursuant to 11 U.S.C § 362 and the Injunction to permit Scott and Moses to seek to liquidate their claims in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist. If Scott and Moses obtain a recovery or judgment against the Debtors in the Tennessee Action, Scott and Moses will seek to enforce it solely against the proceeds of insurance and will not seek to enforce the recovery or judgment against the Debtors, the Debtors' estates, or property of the Debtors.

9. All parties to the Stipulation reserve all rights, including the Trustee's rights to object to any proof of claim filed by Scott and Moses on any grounds, besides those claims to recover from any applicable insurance proceeds.

### **Relief Requested and Basis for Relief Requested**

10. The standard for approving a settlement or compromise is well established. The Court must consider all of the relevant facts and evaluate whether the proposed compromise falls below the "lowest point in the range of reasonableness." See In re Jackson Brewing Co., 624 F.2d 599, 602-03 (5<sup>th</sup> Cir. 1980); In re Teltronics Services, Inc., 762 F.2d 185, 189 (2d Cir. 1985). In that regard, the bankruptcy judge is required to assess and balance the value of the claims being compromised against the value to the estate of the acceptance of the compromise proposal. See Myers v. Martin (In re Martin), 91 F.3d 389, 393 (3d Cir. 1996).

11. In this case, Scott and Moses believe that the Stipulation is fair, equitable and above the lowest point in the range of reasonableness. By the Stipulation, the Trustee has consented on a limited basis to relief from the automatic stay pursuant to 11 U.S.C § 362

provisions and the Injunction to permit Scott and Moses to seek to liquidate the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist.

12. Scott and Moses believe they are entitled to relief from the automatic stay and that the foregoing constitutes “cause” within the meaning of Section 362(d)(1) of the Bankruptcy Code to modify the automatic stay to permit the Movant to take those steps described in the preceding paragraphs and herein.

14. Scott and Moses therefore submit that the Stipulation should be approved.

**Notice**

15. Notice of this Motion has been or will be served upon: (i) the Office of the United States Trustee; (ii) counsel for the Debtors; (iii) counsel for the Trustee (iv) counsel for the Committee; and (v) all parties that have requested notice and service of pleadings in these cases pursuant to Fed. R. Bankr. P. 2002. In light of the nature of the relief requested herein, Scott and Moses submit that no other or further notice is required.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**Conclusion**

WHEREFORE, Christopher Scott and August Moses respectfully request the entry of an Order: (i) granting this Motion; (ii) approving the Stipulation; and (iii) granting such other and further relief as this Court deems just and proper.

Dated: August 11, 2015  
Wilmington, DE

**WHITEFORD TAYLOR & PRESTON LLC**

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*Counsel for Christopher Scott and August Moses*

## **EXHIBIT A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

	)	Chapter 11
In re:	)	
	)	Case No. 14-11987 (CSS)
FCC HOLDINGS, INC., et al.	)	
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

**STIPULATION BETWEEN THE LIQUIDATING TRUSTEE  
AND CHRISTOPHER SCOTT AND AUGUST MOSES TO LIFT  
THE AUTOMATIC STAY AND PLAN INJUNCTION**

CLINGMAN & HANGER MGMT ASSOC, LLC, the liquidating trustee of the above captioned debtors (the “**Trustee**”) and CHRISTOPHER SCOTT AND AUGUST MOSES (hereinafter “**Scott and Moses**”), by and through their respective authorized representatives, do hereby stipulate and agree as follows:

**RECITALS**

1. On August 25, 2014 (the “**Petition Date**”), each of the above-captioned debtors (the “**Debtors**”) filed a voluntary petition for relief with this Court under chapter 11 of the Bankruptcy Code.
2. The Official Committee of Unsecured Creditors was appointed in these cases on September 5, 2014.
3. On March 18, 2015, the Court entered its Order Confirming First Amended Joint Plan of Orderly Liquidation of FCC Holdings, Inc. and Its Affiliated Debtors (the “**Plan**”) under Chapter 11 of the Bankruptcy Code [D.I. 464].
4. Under the terms of the Plan a liquidating trust was established (the “**Trust**”). The liquidating trustee for the Trust is Clingman & Hanger Mgmt Assoc, LLC (the “**Trustee**”).

5. The effective date of the Plan was May 6, 2015 (the “**Effective Date**”).

6. Prior to the Petition Date, Scott and Moses initiated administrative proceedings before and filed Charges of Discrimination against their former employer, Anthem Career College, with the United States Equal Employment Opportunity Commission, Nashville, Tennessee, Area Office (EEOC), Charge Nos. 494-2014-01259 (Scott) and 494-2014-01314 (Moses). Scott and Moses filed Proof of Claim forms in this action on March 30, 2015. The EEOC issued Scott and Moses Notices of Suit Rights on April 14, 2015. Accordingly, Scott and Moses seek to pursue their claims against Anthem Career College in the United States District Court for the Middle District of Tennessee (the “**Tennessee Action**”), which action is subject to stay by operation of section 362 of the Bankruptcy Code and the injunction provided for in Section 11.05 of the Plan (the “**Injunction**”).

7. The Trustee consents on a limited basis to relief from the automatic stay pursuant to 11 U.S.C § 362 and the Injunction to permit Scott and Moses to seek to liquidate their claims in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist. If Scott and Moses obtain a recovery or judgment against the Debtors in the Tennessee Action, Scott and Moses will seek to enforce it solely against the proceeds of insurance and will not seek to enforce the recovery or judgment against the Debtors, the Debtors’ estate, or property of the Debtors.

8. All parties to the Stipulation reserve all rights, including the Trustee’s right to object to any proof of claim filed by Scott and Moses on any grounds, besides those claims to recover from any applicable insurance proceeds.

9. This Stipulation is subject to approval from the Honorable Christopher S. Sonchi, of the United States Bankruptcy Court for the District of Delaware.

## **AGREEMENT**

NOW, THEREFORE, Scott and Moses and the Trustee hereby stipulate by and between themselves, and request that this Court enter an order approving the following:

- (i) To the extent applicable and subject to the reservations set forth in this Stipulation, the parties hereto agree that the automatic stay under section 362 of the Bankruptcy Code and the injunction provided for in Section 11.05 of the Plan with respect to Debtors and in connection with Scott's and Moses's employment discrimination case is hereby vacated to the extent allowing Scott and Moses to proceed against Debtors' in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist..
- (ii) This Stipulation constitutes the entire agreement between the parties with respect to the matters addressed herein, shall supersede all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, and except as provided herein, is not intended to confer upon any other person any rights or remedies hereunder.
- (iii) This Stipulation may not be modified except in a writing signed by the parties or by further order of the Bankruptcy Court.
- (iv) This Stipulation shall become effective only when the fully executed Stipulation has been exchanged between the parties and the Bankruptcy Court has entered a final, non-appealable order approving the Stipulation.
- (v) The Bankruptcy Court shall retain jurisdiction over any and all disputes or other matters arising under or otherwise relating to this Stipulation.

WHEREFORE, the undersigned have executed the Stipulation on behalf of the parties hereto.

/s/ Douglas B. Janney, III  
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JANNEY III

*Attorneys for Christopher Scott and  
August Moses*

/s/ Ericka F. Johnson  
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*Attorneys for the Liquidating Trustee*



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

_____	)	Chapter 11
In re:	)	Case No. 14-11987
	)	
FCC HOLDINGS, INC., et al.,	)	
	)	(Jointly Administered)
Debtors.	)	
_____	)	Docket No. _____

**ORDER GRANTING MOTION TO APPROVE STIPULATION  
BETWEEN CHRISTOPHER SCOTT AND AUGUST MOSES  
AND THE TRUSTEE GRANTING RELIEF FROM  
AUTOMATIC STAY AND PLAN INJUNCTION**

Upon consideration of the Motion to Approve Stipulation Between Christopher Scott and August Moses and the Trustee Granting Relief from the Automatic Stay (the “**Motion**”); and after due deliberation; and it appearing that sufficient cause exists for granting the relief requested by the Motion; it is hereby:

ORDERED that the Stipulation (a copy of which is attached hereto as Exhibit 1) is approved; and it is further

ORDERED that Scott and Moses<sup>2</sup> are granted relief from the automatic stay pursuant to 11 U.S.C § 362 and the injunction provided for in Section 11.05 of the Plan to seek to liquidate their claims for recovery solely against any applicable insurance policy of the Debtors; and it is further

ORDERED that if Scott and Moses obtain a recovery or judgment against the Debtors in the Tennessee Action, Scott and Moses will seek to enforce it solely against the proceeds of insurance and will not seek to enforce the recovery or judgment against the Debtors, the Debtors’ estates, or property of the Debtors; and it is further

\_\_\_\_\_  
<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from or related to the Stipulation and this Order.

Dated: Wilmington, Delaware  
\_\_\_\_\_, 2015

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Honorable Christopher S. Sontchi  
United States Bankruptcy Judge

## **EXHIBIT 1**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

	)	Chapter 11
In re:	)	
	)	Case No. 14-11987 (CSS)
FCC HOLDINGS, INC., et al.	)	
	)	(Jointly Administered)
Debtors.	)	
	)	
	)	

**STIPULATION BETWEEN THE LIQUIDATING TRUSTEE  
AND CHRISTOPHER SCOTT AND AUGUST MOSES TO LIFT  
THE AUTOMATIC STAY AND PLAN INJUNCTION**

CLINGMAN & HANGER MGMT ASSOC, LLC, the liquidating trustee of the above captioned debtors (the “**Trustee**”) and CHRISTOPHER SCOTT AND AUGUST MOSES (hereinafter “**Scott and Moses**”), by and through their respective authorized representatives, do hereby stipulate and agree as follows:

**RECITALS**

1. On August 25, 2014 (the “**Petition Date**”), each of the above-captioned debtors (the “**Debtors**”) filed a voluntary petition for relief with this Court under chapter 11 of the Bankruptcy Code.
2. The Official Committee of Unsecured Creditors was appointed in these cases on September 5, 2014.
3. On March 18, 2015, the Court entered its Order Confirming First Amended Joint Plan of Orderly Liquidation of FCC Holdings, Inc. and Its Affiliated Debtors (the “**Plan**”) under Chapter 11 of the Bankruptcy Code [D.I. 464].
4. Under the terms of the Plan a liquidating trust was established (the “**Trust**”). The liquidating trustee for the Trust is Clingman & Hanger Mgmt Assoc, LLC (the “**Trustee**”).

5. The effective date of the Plan was May 6, 2015 (the “**Effective Date**”).

6. Prior to the Petition Date, Scott and Moses initiated administrative proceedings before and filed Charges of Discrimination against their former employer, Anthem Career College, with the United States Equal Employment Opportunity Commission, Nashville, Tennessee, Area Office (EEOC), Charge Nos. 494-2014-01259 (Scott) and 494-2014-01314 (Moses). Scott and Moses filed Proof of Claim forms in this action on March 30, 2015. The EEOC issued Scott and Moses Notices of Suit Rights on April 14, 2015. Accordingly, Scott and Moses seek to pursue their claims against Anthem Career College in the United States District Court for the Middle District of Tennessee (the “**Tennessee Action**”), which action is subject to stay by operation of section 362 of the Bankruptcy Code and the injunction provided for in Section 11.05 of the Plan (the “**Injunction**”).

7. The Trustee consents on a limited basis to relief from the automatic stay pursuant to 11 U.S.C § 362 and the Injunction to permit Scott and Moses to seek to liquidate their claims in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist. If Scott and Moses obtain a recovery or judgment against the Debtors in the Tennessee Action, Scott and Moses will seek to enforce it solely against the proceeds of insurance and will not seek to enforce the recovery or judgment against the Debtors, the Debtors’ estate, or property of the Debtors.

8. All parties to the Stipulation reserve all rights, including the Trustee’s right to object to any proof of claim filed by Scott and Moses on any grounds, besides those claims to recover from any applicable insurance proceeds.

9. This Stipulation is subject to approval from the Honorable Christopher S. Sonchi, of the United States Bankruptcy Court for the District of Delaware.

## AGREEMENT

NOW, THEREFORE, Scott and Moses and the Trustee hereby stipulate by and between themselves, and request that this Court enter an order approving the following:

- (vi) To the extent applicable and subject to the reservations set forth in this Stipulation, the parties hereto agree that the automatic stay under section 362 of the Bankruptcy Code and the injunction provided for in Section 11.05 of the Plan with respect to Debtors and in connection with Scott's and Moses's employment discrimination case is hereby vacated to the extent allowing Scott and Moses to proceed against Debtors' in the Tennessee Action for recovery solely against any applicable insurance policies and/or coverage, if any exist..
- (vii) This Stipulation constitutes the entire agreement between the parties with respect to the matters addressed herein, shall supersede all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, and except as provided herein, is not intended to confer upon any other person any rights or remedies hereunder.
- (viii) This Stipulation may not be modified except in a writing signed by the parties or by further order of the Bankruptcy Court.
- (ix) This Stipulation shall become effective only when the fully executed Stipulation has been exchanged between the parties and the Bankruptcy Court has entered a final, non-appealable order approving the Stipulation.
- (x) The Bankruptcy Court shall retain jurisdiction over any and all disputes or other matters arising under or otherwise relating to this Stipulation.

WHEREFORE, the undersigned have executed the Stipulation on behalf of the parties hereto.

/s/ Douglas B. Janney, III  
DOUGLAS B. JANNEY III, ESQ.  
LAW OFFICE OF DOUGLAS B.  
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*Attorneys for Christopher Scott and  
August Moses*

/s/ Ericka F. Johnson  
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& RICE LLP

*Attorneys for the Liquidating Trustee*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

---

In re:	) Chapter 11
	)
FCC HOLDINGS, INC., et al.	) Case No. 14-11987 (CSS)
	)
Debtors.	) (Jointly Administered)
	)
	) Objection Deadline: August 25, 2015 at 4:00 p.m. (EST)
	) Hearing Date: TBD

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**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that on August 11, 2015, Christopher Scott and August Moses (“**Scott and Moses**”) filed a Motion to Approve Stipulation Between Christopher Scott and August Moses and the Debtors Granting Relief from Automatic Stay and the Plan Injunction (the “**Motion**”). A copy of the Motion is being served on you concurrently herewith.

**PLEASE TAKE FURTHER NOTICE** that a hearing on the Motion will be scheduled before the Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware (the “**Court**”), 824 N. Market Street, 5<sup>th</sup> Floor, Courtroom #6, Wilmington, DE 19801 on a date to be determined (the “**Hearing**”).

**PLEASE TAKE FURTHER NOTICE** that any objections to the relief sought in the Motion must be in writing and filed with the Court and served on counsel to Scott and Moses so to be actually received by them no later than **August 25, 2015 at 4:00 p.m. (Prevailing Eastern Time)** (the “**Objection Deadline**”).

**PLEASE TAKE FURTHER NOTICE** that if no replies are filed by the Objection Deadline, the Court may enter an order granting the relief requested in the Motion without further notice or a hearing.



Dated: August 11, 2015  
Wilmington, DE

**WHITEFORD TAYLOR & PRESTON LLC**

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*Counsel for Christopher Scott and August Moses*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

_____	) Chapter 11
In re:	)
	) Case No. 14-11987 (CSS)
FCC HOLDINGS, INC., et al.	)
	) (Jointly Administered)
Debtors.	)
	) Objection Deadline: August 25, 2015 at 4:00 p.m. (EST)
_____	) Hearing Date: TBD

**CERTIFICATE OF SERVICE**

I, Thomas J. Francella, Jr., Esquire, do hereby certify that on this 2<sup>nd</sup> day of July 2015, I caused true and correct copy of the following Motion to Approve Stipulation between Artisha Janay Clark and the Liquidating Trustee Granting Relief from Automatic Stay and Plan Injunction to be served upon the following via First Class Mail.

Dated: August 11, 2015  
Wilmington, DE

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